

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
LONDON DIVISION**

UNITED STATES OF AMERICA, and  
COMMONWEALTH OF KENTUCKY,

*Plaintiffs,*

v.

DAIRY FARMERS OF AMERICA, INC., and  
SOUTHERN BELLE DAIRY CO., LLC,

*Defendants.*

Civil Action No.: 03-206-KSF

Filed:

**AMENDED COMPLAINT**

The United States of America, acting under the direction of the Attorney General of the United States, and the Commonwealth of Kentucky, by and through its Attorney General, bring this civil action to obtain equitable relief against defendants, including compelling the Dairy Farmers of America, Inc. ("DFA") to divest its interests in the Southern Belle dairy located in Somerset, Kentucky, and allege as follows:

**I**

**Nature of the Action**

1. Up until February 2002, DFA, through its subsidiaries, operated the Flav-O-Rich dairy in London, Kentucky ("Flav-O-Rich") and competed vigorously against the Southern Belle dairy, located thirty miles away in Somerset, Kentucky ("Southern Belle"), to supply milk to

school districts located in Kentucky and Tennessee. That competition resulted in lower prices and better service for school districts that provide milk to students.

2. In February 2002, DFA, through another subsidiary, acquired control of Southern Belle, eliminating that important competition. When it made that acquisition, DFA understood that the Department of Justice had in September 1998 successfully challenged a merger involving the very same dairies, under different ownership, because it would have substantially lessened competition in violation of Section 7 of the Clayton Act.

3. Southern Belle and Flav-O-Rich are the only two dairies or two of only a few dairies that bid to supply school milk in many parts of Kentucky and Tennessee. In 45 school districts, the acquisition has created a monopoly. In 55 other districts, the number of bidders has effectively declined from three to two, reducing competition substantially.

4. History in this region has demonstrated that less competition results in higher prices. Many school districts in this area previously had to pay higher prices as victims of a criminal bid-rigging conspiracy involving school milk. The former owners of Southern Belle and Flav-O-Rich engaged in that conspiracy and pled guilty to conspiring with each other for more than a decade to rig school milk bids.

5. Because many of the affected school districts are small or rural districts, often in the mountains, it is unlikely that other dairies will enter or expand into these markets to eliminate the anticompetitive effects of the acquisition. Indeed, Southern Belle's former owner, in the course of debarment proceedings following the criminal conviction, explained that entry was unlikely in many of these very districts, and that the elimination of Southern Belle as a competitor would reduce competition and cause prices to rise.

## II

### Defendants

6. Defendant Dairy Farmers of America, Inc. (“DFA”) is a Kansas corporation with its headquarters and principal place of business in Kansas City, Missouri. DFA is the largest dairy farmer cooperative in the world. In 2001, it had approximately 25,500 members in 48 states, and sold approximately 45.6 billion pounds of raw milk. DFA had over \$7.9 billion in revenues in 2001.

7. DFA owns a 50% common equity interest and approximately 92% preferred equity interest (around \$500,000,000) in National Dairy Holdings, L.P. (“NDH”). It also has a 50% interest in Dairy Management LLC, which is the managing arm of NDH. Based on its financial interests in NDH, DFA has the rights to between 50% and 75% or more of NDH’s profits. In forming NDH, DFA and its partners in NDH agreed, among other things, that DFA must approve any decision to commit NDH to any contracts or expenditures exceeding \$50,000, to appoint new NDH officers, or change the compensation (e.g., increase the salary) of NDH’s officers.

8. DFA is the sole supplier of raw milk and is the contractually preferred supplier of raw milk to Flav-O-Rich and other NDH dairies. DFA also sells more raw, unprocessed milk to dairies in Kentucky and Tennessee than does any other entity.

9. In addition to its controlling interests in Flav-O-Rich, DFA also owns financial interests in several other dairies that sell school milk in parts of Kentucky and Tennessee, including five additional NDH dairies, three Turner Holdings dairies, and one Ideal American

dairy. Until February 2002, when the instant acquisition was consummated, Southern Belle competed with a number of these dairies in addition to NDH dairies such as Flav-O-Rich.

10. In December 2001, DFA, through NDH, acquired control and influence over all significant business decisions of Flav-O-Rich and other NDH dairies. Flav-O-Rich processes approximately 30 million gallons of fluid milk per year and had annual revenues of approximately \$70 million in 2001. Flav-O-Rich distributes and sells school milk primarily in the eastern two-thirds of Kentucky and Tennessee.

11. In February 2002, DFA, through its partially owned subsidiary, Southern Belle Dairy Co., LLC, ("Southern Belle subsidiary"), acquired control and influence over all significant business decisions of Southern Belle. DFA and subsidiaries controlled in whole or in part by DFA contributed approximately \$18 million of the \$19 million purchase price for Southern Belle. The Allen Family Limited Partnership ("AFLP") contributed the remaining \$1 million, which DFA guaranteed AFLP could recover any time after February 26, 2005. DFA and its subsidiaries own a 50% common equity interest and almost 100% preferred equity interest (around \$4,000,000), and 100% credit interest (around \$13,000,000) in Southern Belle.

12. DFA formed its Southern Belle subsidiary to acquire the Southern Belle dairy after it became clear that its NDH subsidiary could not acquire the dairy based on the Department of Justice's September 1998 challenge.

13. In planning how DFA would control the Southern Belle subsidiary after they formed it, DFA and AFLP agreed, among other things, that DFA must approve any decision to commit Southern Belle to any contracts or expenditures exceeding \$150,000, as well as hiring and compensation decisions for Southern Belle's officers. DFA also gained the right to control

the supply of raw milk to the dairy and, based on its debt and equity holdings, the rights to between 50% and 75% of the dairy's profits.

14. Defendant Southern Belle Dairy Co., LLC, is a Delaware limited liability company with its headquarters and principal place of business in Somerset, Kentucky, where it owns and operates the Southern Belle dairy. Southern Belle processes approximately 25 million gallons of fluid milk per year and had annual revenues of approximately \$65 million in 2001. Southern Belle distributes and sells school milk primarily in the eastern two-thirds of Kentucky and Tennessee.

### **III**

#### **Jurisdiction and Venue**

15. This Complaint is filed under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, and by the Commonwealth of Kentucky under 15 U.S.C. § 26, to prevent and restrain defendants from continuing to violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and under the provisions of K.R.S. § 367.110 *et seq.*

16. Defendants, on their own or through their subsidiaries, transport and sell school and other milk in the flow of interstate commerce in Kentucky and Tennessee and are engaged in interstate commerce and in activities substantially affecting interstate commerce. Defendant DFA also buys and sells raw milk in interstate commerce. This Court has jurisdiction over the subject matter of this action and the parties pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1331, 1337(a) and 1345.

17. Both of the defendants transact business and are found in the Eastern District of Kentucky. Defendant Southern Belle's principal place of business is in this district. Venue is proper in this judicial district pursuant to 15 U.S.C. § 22 and 28 U.S.C. § 1391.

#### IV

##### **History of Collusion on School Milk Sales in the Relevant Markets**

18. In late 1992, Southern Belle and Flav-O-Rich pled guilty to the felony of conspiring to raise the price of school milk by agreeing on which dairy would submit the lowest bid for which school district. The conspiracy existed from at least the late 1970s through July 1989, and resulted in substantial harm to over thirty school districts. Southern Belle paid a \$375,000 criminal fine; Flav-O-Rich paid \$1,000,000. No others were charged with participating in this conspiracy. The current acquisition recreates the effect of this conspiracy in many of those same school districts harmed by the conspiracy for over a decade. *See United States v. Southern Belle Dairy Co.*, [1988-1996 Transfer Binder] Trade Reg. Rep. (CCH) ¶ 45,092, at 44,599 (E.D. Ky. Nov. 13, 1992); *United States v. Flav-O-Rich, Inc.*, [1988-1996 Transfer Binder] Trade Reg. Rep. (CCH) ¶ 45,092, at 44,605 (N.D. Ga. Dec. 22, 1992).

#### V

##### **The Manufacture, Distribution, and Sale of School Milk Is a Relevant Product Market**

19. Dairies purchase raw milk from dairy farmers and agricultural cooperatives, pasteurize and package the milk, and distribute and sell the processed product. Fluid milk ("fluid milk") is raw milk that has been processed for human consumption, may be unflavored or flavored with chocolate or fruit flavorings, and does not include extended shelf life (ESL) milk or ultra high temperature (UHT) milk, which are produced by different manufacturing processes,

generally cost significantly more than fluid milk, and have numerous significant physical differences compared with fluid milk, such as shelf stability, and a significantly different taste, among other attributes.

20. School milk is fluid milk that is processed, distributed, and sold to school districts, usually in half pint containers, pursuant to contracts with school districts. While these contracts may also include other products, school milk accounts for the vast majority of the dollar value of these contracts.

21. The U.S. Department of Agriculture (“USDA”) sponsors several programs to reimburse schools for meals and snacks served to students from lower income families. To qualify, schools must offer milk to every student, regardless of the income of that student’s family. If schools want to receive the federal reimbursements, they cannot substitute other products for school milk, regardless of the milk’s cost.

22. Individual school districts generally solicit bids from dairies to supply them with school milk. Sometimes, groups of school districts solicit bids to supply school milk to some or all of the school districts in the group, but each individual school district usually chooses (even if it solicited bids as part of a group) the dairy to which it will award its business.

23. Schools require many important services in connection with the supply of school milk. These services often include frequent delivery (usually every day or every other day because schools generally cannot store more than a limited amount of milk); delivery to all or almost all schools in a district; reordering of milk; stocking milk in the coolers; rotating products; retrieving spoiled and damaged products; providing quick emergency shipments (to guarantee a school has enough milk on hand so it will not lose school meal reimbursements); the return of

milk before holidays; specific times of delivery (e.g., early morning so as not to conflict with times when students are present); specific access requirements (e.g., providing keys to drivers); allotting credit for retrieved products; cleaning and maintaining coolers; and other requirements.

24. School districts would not switch to alternative products or delivery methods in the event of a small but significant increase in the price of school milk.

25. The manufacture, distribution, and sale of school milk constitutes a relevant product market or line of commerce within the meaning of Section 7 of the Clayton Act.

## **VI**

### **The Relevant Geographic Markets**

26. Individual school districts generally solicit bids for school milk, although sometimes groups of school districts solicit bids for school milk for some or all of the school districts in the group. School districts usually decide which dairy to award with a school milk contract on an individual basis (regardless of whether they solicit bids individually or as part of a group). Several school districts belong to a group of school districts that 1) requires its members to solicit bids for school milk only through that group, and 2) requires bidders to submit a uniform bid for all of the districts in the group. Each school district typically requires its school milk supplier to deliver to each school within the school district. School districts vary with respect to how many schools must be served, the distance between the schools, the size of the schools in the school district, and other attributes. Each school district has its own requirements with respect to the frequency of deliveries (typically every day or every other day, because schools generally cannot store more than a limited amount of milk), the time of deliveries, the



quantity of deliveries, products included, cooler requirements, and specific or individual service requirements.

27. Due to the high level of service requirements of schools, the high frequency of delivery required, the small volume delivered at each stop, the seasonal nature of the business, and other factors, the viable suppliers of school milk are generally limited to those dairies that already have significant local distribution in the area. Dairies that do not currently have nearby routes are generally not viable suppliers of school milk to such school districts. These factors limit school districts' choice of suppliers.

28. Dairies charge different prices to different school districts or groups of school districts ("price discriminate"), based on, among other things, the number of competing dairies in the area, the strength of competition in these localized school milk markets, and the unique service and other requirements of schools.

29. Accordingly, each school district, or group of school districts that requires its members to use the school milk supplier who submits a winning bid that is uniform for that entire group, constitutes a relevant geographic market or section of the country within the meaning of Section 7 of the Clayton Act. School districts harmed by the acquisition include those, among others, listed in Attachment A ("Merger-to-Monopoly Markets") and Attachment B ("Merger-to-Duopoly Markets").

## **VII**

### **Harm to Consumers**

30. Competition between Southern Belle and Flav-O-Rich (or other dairies in which DFA has financial interests) resulted in lower prices and better service for many school milk

customers in Kentucky and Tennessee. Southern Belle's competitive presence forced these other dairies to lower their respective bid prices for school milk contracts.

31. Before DFA's acquisition of Southern Belle, school milk markets in Kentucky and Tennessee had very few competitors and thus were already highly concentrated. These markets have become much more concentrated as a result of the acquisition.

32. In many of these markets, Southern Belle and Flav-O-Rich (or other dairies in which DFA has financial interests) are clearly the two dairies able to supply school milk most economically, and would benefit (at the expense of consumers) by acting together at DFA's direction to raise one or both of their bids. Because it shares each dairy's profits, DFA has a financial incentive to encourage, facilitate, or enforce such cooperation. And, with DFA's control or influence over critical business decisions of the dairies, the dairies are likely to cooperate. Reducing the number of independent bidders from two to one in these markets makes it very likely that prices will rise or the level of service will decrease for these districts.

33. In a number of other school districts, Southern Belle and Flav-O-Rich (or other dairies in which DFA has financial interests) are two of only three likely bidders. Reducing the number of independent bidders from three to two in these markets makes it very likely that prices will rise or the level of service will decrease for these districts.

34. The effect of DFA's acquisition of control and influence over Southern Belle is to substantially lessen competition, or to tend to create a monopoly in violation of Section 7 of the Clayton Act.

## VIII

### Entry is Difficult

35. To maintain its ability to sell school milk, the former owner of Southern Belle told the USDA during debarment proceedings in 1998 that competition would decrease and prices would rise if it could not bid. It said that Southern Belle was an “important supplier to very small school districts in Kentucky and Tennessee,” especially in the “rural districts in the mountains of eastern Kentucky.” (Letter from Joseph L. Ruby, *Wiley Rein & Fielding*, to Yvette Jackson, *Acting Administrator, Food and Consumer Service, USDA*, Jan. 23, 1998, at 2, copy provided in Attachment C.) It also said that those school districts would be unlikely to find any new school milk entrants to replace the lost competition if it could not bid.

36. Entry by new competitors or expansion by existing dairies in the manufacture, distribution, and sale of school milk will not be timely, likely, or sufficient to defeat any increase in prices or decrease in the level of services in the affected school milk markets. A dairy is unlikely to enter a school milk market, even after a small but significant price increase, unless it already services a substantial number of existing commercial fluid milk customers from its route trucks in the school district. This is true because school milk business is usually used to “fill out” a dairy’s existing commercial fluid milk route truck business, as schools require the regular (e.g., every day or every other day) delivery of school milk along with a number of important labor-intensive and time-consuming services, which would not be economical but for the existing fluid milk customer accounts. Thus, only dairies with existing straight truck delivery routes in an area can compete efficiently for school milk business in that area. Entry or expansion into the

school milk business also requires substantial investment in specialized manufacturing assets and infrastructure, including the high cost of installing a dedicated half pint filler.

37. Neither entry nor expansion prevented Southern Belle and Flav-O-Rich from successfully carrying out a decade-long criminal bid rigging conspiracy against many of these same school milk districts. Such long-lasting collusion would not have been possible if higher prices easily attracted new competitors.

## **IX**

### **Violations Alleged**

38. DFA's acquisition of Southern Belle through its partially owned Southern Belle subsidiary will likely have the following effects, among others:

- a. Competition generally in the manufacture, distribution, and sale of school milk in the relevant geographic markets will be substantially lessened;
- b. Actual and potential competition between Southern Belle and Flav-O-Rich (or other dairies in which DFA has financial interests) in the manufacture, distribution, and sale of school milk in the relevant geographic markets will be substantially lessened; and
- c. Prices for school milk in the relevant geographic markets will likely increase.

39. DFA's partial acquisition of Southern Belle violates Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and K.R.S. § 367.110 *et seq.*

**X**

**Relief Requested**

40. Plaintiffs request that this Court:
- a. Adjudge the acquisition of Southern Belle by defendant DFA to violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and K.R.S. § 367.110 *et seq.*
  - b. Compel DFA to divest all of its interests (including common equity, preferred equity, credit interests, raw milk procurement authority, etc.) in Southern Belle, and take any further actions needed to place Southern Belle in the same or comparable competitive position as existed prior to the acquisition;
  - c. Permanently enjoin and restrain DFA, including any of its subsidiaries or joint ventures, and all persons acting on behalf of any of these entities, from acquiring or maintaining, in whole or part, any simultaneous legal or beneficial interests (including common equity, preferred equity, credit interests, or raw milk procurement authority) in both Southern Belle and Flav-O-Rich;
  - d. Compel DFA, including any of its subsidiaries or joint ventures, and all persons acting on behalf of any of these entities, to provide plaintiff United States of America with notification at least 30 calendar days prior to any acquisition, in whole or in part, of any legal or beneficial interests

(including common equity, preferred equity, credit interests, or raw milk procurement authority) in any fluid milk processing operation;

- e. Allow any school district or school purchasing cooperative to terminate or rescind any contract to supply school milk entered into with defendants on or after February 20, 2002, including but not limited to eliminating any restrictions on or disincentives to terminating or rescinding such contracts and otherwise refunding or returning consideration paid in advance pursuant to such contracts (i.e., making such contracts voidable in the sole discretion of the school districts or purchasing cooperatives);
- f. Award plaintiffs the costs of this action; and
- g. Award plaintiffs such other and further relief as is proper.

Respectfully submitted,

For Plaintiff United States of America:



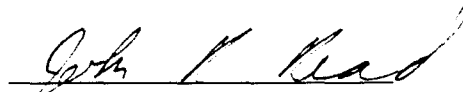
R. Hewitt Pate  
Assistant Attorney General



J. Bruce McDonald  
Deputy Assistant Attorney General



Mark J. Botti  
Chief, Litigation I Section



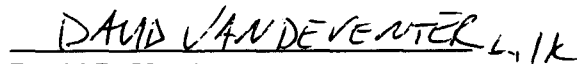
John R. Read  
Assistant Chief, Litigation I Section



J.D. Donaldson  
Jody A. Boudreault  
N. Christopher Hardee  
Richard S. Martin  
Richard D. Cooke  
Ihan Kim  
U.S. Department of Justice  
Antitrust Division  
1401 H Street, N.W., Suite 4000  
Washington, DC 20530  
202-307-0001

Dated: March 30, 2004

For Plaintiff Commonwealth of Kentucky:



David R. Vandeventer  
Assistant Attorney General  
Kentucky Bar No. 72790  
Office of the Attorney General of Kentucky  
1024 Capital Center Drive  
Frankfort, KY 40601  
502-696-5385

Dated: March 30, 2004

## ATTACHMENT A

### Merger-to-Monopoly Markets

Adair County, KY  
Ashland Independent, KY  
Bell County, KY  
Berea Independent, KY  
Boyd County, KY  
Boyle County, KY  
Breathitt County, KY  
Campbellsville Independent, KY  
Casey County, KY  
Clay County, KY  
Clinton County, KY  
Cumberland County, KY  
East Bernstadt Independent, KY  
Estill County, KY  
Fairview Independent, KY  
Garrard County, KY  
Harlan Independent, KY  
Harrodsburg Independent, KY  
Hazard Independent, KY  
Jackson County, KY  
Jenkins Independent, KY  
Jessamine County, KY  
Laurel County, KY  
Lee County, KY  
Leslie County, KY  
Letcher County, KY  
Lincoln County, KY  
Madison County, KY  
McCreary County, KY  
Mercer County, KY  
Montgomery County, KY  
Oneida Baptist, KY  
Owsley County, KY  
Perry County, KY  
Pineville Independent, KY  
Pulaski County, KY  
Rockcastle County, KY

Russell County, KY  
Science Hill Independent, KY  
Somerset Independent, KY  
Wayne County, KY  
Whitley County, KY  
Williamsburg Independent, KY  
Wolfe County, KY  
Clay County, TN



## ATTACHMENT B

### Merger-to-Duopoly Markets

Allen County, KY  
Barbourville Independent, KY  
Barren County, KY  
Bath County, KY  
Butler County, KY  
Carter County, KY  
Caverna Independent, KY  
Corbin Independent, KY  
Fayette County (Lexington), KY  
Franklin County, KY  
Glasgow Independent, KY  
Green County, KY  
Greenup County, KY  
Hart County, KY  
Knox County, KY  
Larue County, KY  
Lawrence County, KY  
Logan County, KY  
Menifee County, KY  
Metcalf County, KY  
Middlesboro Independent, KY  
Monticello Independent, KY  
Morgan County, KY  
Ohio County, KY  
Owensboro Independent, KY  
Rowan County, KY  
Russell Independent, KY  
Russellville Independent, KY  
Simpson County, KY  
Taylor County, KY  
Alcoa City, TN  
Anderson County, TN  
Blount County, TN  
Bristol City, TN  
Campbell County, TN  
Carter County, TN  
Clinton City, TN  
Cocke County, TN

Elizabethton Independent, TN  
Greene County, TN  
Greeneville City, TN  
Hawkins County, TN  
Hamblen County, TN  
Johnson City, TN  
Johnson County, TN  
Knox County, TN  
Macon County, TN  
Maryville City, TN  
Metro Davidson (Nashville), TN  
Rogersville City, TN  
Sevier County, TN  
Sullivan County, TN  
Unicoi County, TN  
Union County, TN  
Washington County, TN

ATTACHMENT C

WILEY, REIN & FIELDING

1778 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 428-7000

JOSEPH L. RUBY  
(202) 828-3114

FACSIMILE  
(202) 428-7048

January 23, 1998

BY MESSENGER

Ms. Yvette Jackson  
Acting Administrator  
Food and Consumer Service  
U.S. Department Of Agriculture  
3101 Park Center Drive, Room 1008  
Alexandria, VA 22302

Re: Southern Belle Dairy Company, Notice of Suspension and Debarment

Dear Ms. Jackson:

On behalf of the Southern Belle Dairy division of Broughton Foods, Inc. ("Southern Belle"), we would like to supplement the administrative record made at the meeting of January 15, 1998, in connection with certain issues raised at that hearing, and also to propose certain actions to assure that a repeat of the alleged reporting violations will not occur in the future.

Southern Belle desires to supplement the record with the following documentation, which is attached:

The Termination of Mr. Christian

At our meeting, Mr. Hallberg expressed interest in reviewing documentation relating to Mr. Christian's probation as of May 1997, leading to his termination for performance reasons. The following documentation is enclosed:

Exh. 1. A May 15, 1997 "agenda" for a meeting with Mr. Christian.

Exh. 2. A May 15, 1997 memo by Mr. Christian's superior, Mike Chandler, summarizing a meeting with Mr. Christian at which he was informed of his need to improve performance or face termination, with a review to take place in two months.

Ms. Yvette Jackson  
January 23, 1998  
Page 2

### Southern Belle's Contracts Under \$100,000

At our meeting, Ms. Landos sought information concerning the number of school milk contracts under \$100,000 that were serviced by Southern Belle. Attached hereto as Exh. 3 are two lists, showing actual 1996-97 and projected 1997-98 sales by school districts.

The lists show that, for 1996-97, Southern Belle serviced 46 districts. Of those, 33 districts had sales under \$100,000. Of the 33 districts, 16 had sales under \$50,000.

Projected sales for 1997-98 show that Southern Belle is currently servicing 55 districts. Of these, 39 districts are projected to have sales under \$100,000. Of the 39 districts, 20 are projected to have sales under \$50,000.

These figures reveal that Southern Belle is an important supplier to very small school districts in Kentucky and Tennessee. As the maps we provided show, many of these are rural districts in the mountains of eastern Kentucky. These districts would likely find it difficult to attract alternative suppliers from more distant locations.

It is of equal interest that for two years in a row, Southern Belle has been the low bidder in the Fayette County district (that is, Lexington, Ky.), which has sales of over \$600,000, and attracts multiple bids from competing dairies.

As mentioned above, in addition to supplementing the record with this additional documentation, Southern Belle would like to suggest that it undertake certain changes in its current procedures, which it hopes will prevent the recurrence of any reporting difficulties in the future.

As a preface to doing so, we note that Southern Belle, having been on the verge of bankruptcy and liquidation, is now a strong competitor and often the low bidder for school milk and other government contracts. Southern Belle has been able to continue in business and to attract a merger partner in Broughton Foods, whose purchase of Southern Belle means the continuing presence of a competitive dairy in the southeastern Kentucky region. The proposed debarment for reporting violations would undermine much of the progress that Southern Belle has made, with FCS's assistance and under its compliance program, over the past few years. It would also unavoidably require the consolidation of routes and the layoffs of many Southern Belle employees. Debarment would therefore hurt the local Somerset, Kentucky economy and would reduce competition for government dairy contracts in the region.

Going forward, to insure that timely and accurate reporting is carried out under the Compliance Agreement, all Southern Belle management will be informed that they are to report actual or suspected misconduct to an Ethics Committee member within 24 hours. Furthermore, the Ethics Committee (which now has two new members from Broughton Foods)

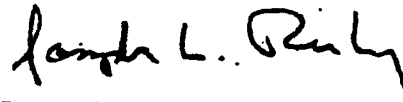
Ms. Yvette Jackson  
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Page 3

will implement new procedures whereby, when a violation is reported, it will convene quickly using telephone and fax, conduct an investigation, and make a timely report.

Finally, it appeared that there was a concern that the minutes of the September 26, 1997 Ethics Committee meeting may not have captured the discussion at that meeting with complete accuracy. It has been the practice to have the minutes of each meeting kept by one member, and not reviewed as a matter of course until the next meeting. To eliminate accuracy concerns in the future, Southern Belle will undertake to have the minutes typed and distributed to all members by the business day following the meeting, so that any omissions can be corrected immediately.

In closing, Southern Belle would like to point out that there are a number of Kentucky state government contracts which are traditionally bid in February, including contracts for parks, universities, state hospitals, and vocational schools. Southern Belle would appreciate the ability to bid on these contracts, and submits that it is in the government's interest to permit Southern Belle to compete for them. We therefore request that, if at all possible, this matter be resolved promptly so that Southern Belle may participate in the bidding for at least some of these contracts.

Very truly yours,



Joseph L. Ruby

cc: Philip Cline  
Martin Shearer  
Steven Diamond, Esquire



**Company expectations in the following areas,**

- Hours of work:

**12:00 pm to 5.00 pm - Friday - Office**

Harold Soper and I met with Steve Christian at the Louisville Branch. We reviewed his job description and asked him if there was anything that he could not do, or was unwilling to do. Steve said that he did not want to make sales calls or call on existing business. We stressed that all Branch Managers did this and that it was an important part of his job.

We discussed with Steve the need to create a better work environment for the roulemen as several had complained that they had been mistreated in some way. One route person reported that he was not receiving mail communication from Somerset, another said he was being used around the Branch for jobs that were not related to his route.

We made an agreement to meet within two months to review his progress.

Mike Chandler

PROJECTED FROM ACTUAL 8/97 - 12/97

School System	Contract No.	1997-98 Sales
Adair County Schools	21627	95,893.38
Barbourville City Schools	22238	17,608.30
Bath County Schools	29192	84,831.85
Berea Community Schools	21352	26,750.62
Bowling Green City Schools	27981	122,667.00
Boyle County Schools	26130	37,890.91
Breathitt County Schools	33238	143,257.60
Bristol City (TN) Schools	34728	81,402.62
Burgin City Schools	26097	14,299.24
Campbell County Schools	29969	250,504.95
Clarksville Community (IN)	34815	30,299.82
Corbin City Schools	24627	72,999.58
Cumberland County Schools	30004	41,371.73
Danville City Schools	25979	56,280.46
East Bernstadt School	21157	17,540.36
Estill County Schools	25799	89,665.39
Fayette County Schools	21100	608,675.03
Green County Schools	26795	42,321.70
Greenville City Schools	30007	44,520.96
Harrodsburg City Schools	33160	31,790.80
Hart County Schools	28389	66,226.97
Hazard Independant Schools	34848	27,636.88
Jackson Independant Schools	34847	14,163.46
Knox County Schools (KY)	21278	183,628.12
Larue County Schools	29988	74,432.16
Lee County Schools	24621	56,578.79
Lexington Private Schools	25121	35,552.81
Lincoln County Schools	24191	164,317.71
Macon County Schools	23173	88,989.91
Madison County Schools	25545	229,139.64
McCreary County Schools	24237	140,930.13
Meade County Schools	28464	153,510.34
Menifee County Schools	24919	32,323.89
Mercer County Schools	21763	52,000.58
Metcalf County Schools	28395	59,048.89
Monroe County Schools	26543	77,986.33
Monticello City Schools	21575	25,423.20
Montgomery County Schools	24157	132,973.99
Morgan County Schools	29503	103,785.66
Nashville Metro Schools	23565	335,067.84
Pickett County Schools	26661	28,096.62
Pulaski County Schools	19140	294,978.80
Putnam County Schools	27240	221,463.07
Rockcastle County Schools	21088	87,306.99
Rowan County Schools	28846	82,248.66
Russell County Schools	26382	101,533.70
Science Hill School	29992	13,520.93
Simpson County Schools	33154	70,436.38
Somerset City Schools	13449	45,378.31
Taylor County Schools	26781	74,838.52
Van Buren County Schools	27118	26,809.74
Wayne County Schools	26404	89,391.06
West Clark Community (IN)	32001	60,298.90
Whitley County Schools	32580	202,722.31
Williamsburg City Schools	20425	27,033.50
Total		5,390,347.09

Actual

School System	Contract No.	1996-97 Sales
Adair County Schools	21627	95,893.38
Bath County Schools	29192	84,831.85
Berea Community Schools	21352	26,750.62
Bourbon County Schools	23293	95,217.02
Boyle County Schools	26130	37,890.91
Burgin City Schools	26097	14,299.24
Campbell County Schools	29969	250,504.95
Caverna Independent Schools	28461	35,597.42
Clinton City Schools	23381	30,363.58
Clinton County Schools	26260	57,222.29
Cumberland County Schools	30004	41,371.73
Danville City Schools	25979	56,280.46
East Bernstadt School	21157	17,540.36
Estill County Schools	25799	89,665.39
Fayette County Schools	21100	608,675.03
Garrard County Schools	24200	78,654.92
Greenville City Schools	30007	44,520.96
Hardin County Schools	33249	367,140.54
Harrodsburg City Schools	33160	31,790.80
Hart County Schools	28389	66,226.97
Knox County Schools (KY)	21278	183,628.12
Lee County Schools	24621	56,578.79
Lexington Private Schools	25121	35,552.81
Lincoln County Schools	24191	164,317.71
Macon County Schools	23173	88,989.91
Madison County Schools	25545	229,139.64
McCreary County Schools	24237	140,930.13
Menifee County Schools	24919	32,323.89
Mercer County Schools	21763	52,000.58
Metcalf County Schools	28395	59,048.89
Monroe County Schools	26543	77,986.33
Monticello City Schools	21575	25,423.20
Montgomery County Schools	24157	132,973.99
Morgan County Schools	29503	103,785.66
Pickett County Schools	26661	28,096.62
Powell County Schools	31815	91,315.15
Pulaski County Schools	19140	294,878.80
Putnam County Schools	27240	221,463.07
Rockcastle County Schools	21088	87,306.99
Russell County Schools	26382	101,533.70
Science Hill School	29992	13,520.93
Simpson County Schools	33154	70,436.38
Somerset City Schools	13449	45,378.31
Van Buren County Schools	27118	26,809.74
Wayne County Schools	26404	89,391.06
Whitley County Schools	32580	202,722.31
Total		4,786,071.13